

### **Remarks**

With this response, claims 13-17 and 20 are canceled, and new claims 21-23 are added. Upon entry of the current amendments, claims 1-12, 18, 19, and 21-23 remain pending.

Reconsideration and further examination of the application are respectfully requested in view of the amendments above and remarks below.

### **New Claims 21-23**

Applicants submit that the claim amendments are fully supported by the application as originally filed and do not present new matter.

Claim 21 features an unproofed, frozen dough that includes:

- from 1 to 4 parts by weight yeast per 100 parts by weight of flour;
- acidic active agent that has relatively high solubility in the dough at retarder conditions;
- basic active agent; and
- wherein the dough, after thawing, can proof at retarder conditions.

Support for new claim 21 can be found in the specification at, e.g., page 9, lines 11-16.

Claim 22 features specific acidic active agents that have relatively high solubility in the dough composition at retarder conditions. Support for new claim 22 can be found in the specification at, e.g., page 11, lines 1-8.

Claim 23 features that the basic active agent is encapsulated. Support for new claim 23 can be found in the specification at, e.g., page 9, lines 11-16.

### **Fees for New Claims 21-23**

No fee is believed to be due for adding new claims 21-23 because of claims previously paid for and subsequently canceled. However, if any fee(s) are required for adding new claims 21-23, please charge all of the appropriate fee(s) to the Kagan Binder Deposit Account No. 07-0900 and notify us of the same.

**Rejection Under 35 U.S.C. §102**

Claims 1-3, 5-12, 18, and 19 stand rejected under 35 U.S.C. §102(b) as being anticipated by Freyn et al. (U.S. Pat. No. 5,451,417).

Applicants respectfully traverse this rejection because Freyn et al. do not necessarily teach a dough that proofs at retarder conditions, as featured in independent claims 1 and 12.

Claim 1 is directed to a composition that features:

- an unproofed frozen dough that includes yeast, acidic active agent, and basic active agent; and
- wherein the dough, after thawing, proofs at retarder conditions.

Applicants' specification defines such proofing as causing a dough to increase in volume by 50% or more and to have a raw specific volume in the range of from about 1.5 to about 3 cubic centimeters per gram (see specification at page 6, lines 16-24). And Applicants' specification defines retarder conditions as a temperature below room temperature (e.g. below 65°F) (see specification at page 7, lines 1-5). That is, proofing at retarder conditions according to Applicants' claims occurs at a relatively cool temperature as compared to conventional proof box temperatures.

The Freyn et al. reference does not necessarily teach a dough that proofs at retarder conditions. The Freyn et al. reference is directed to a freezer-to-oven dough (see Freyn et al. at, e.g., col. 2, lines 16-29, and Examples 1-7). It is true that the Freyn et al. Examples include baking soda, sodium aluminum phosphate, and a certain amount of yeast. While the Freyn et al. doughs may provide suitable dough products in the context of freezer-to-oven processing, Applicants respectfully submit that the dough compositions in the Freyn et al. Examples would not proof at retarder conditions according to Applicants' claim 1 (i.e., proper volume increase and raw specific volume as described above). For example, the flour to water ratio in the Freyn et al. Examples is too low (i.e., there is too much water) for the dough compositions to sufficiently retain leavening gas while leavening at retarder conditions such that the Freyn et al. Examples cannot proof according to claim 1.

It is also true that the Freyn et al. reference mentions at column 5, lines 65-68, that the dough can thaw and proof. However, this does not necessarily refer to proofing at retarder

conditions. Indeed, this brief reference to thawing and proofing is likely to mean conventional proofing at elevated temperatures.

Independent claim 12 is directed to a method of formulating a dough composition and, similar to claim 1, features that the dough composition, after thawing, proofs at retarder conditions. As similarly discussed above with respect to claim 1, the Freyn et al. reference does not necessarily teach a dough that proofs at retarder conditions.

Accordingly, it is respectfully requested that the rejection of claims 1-3, 5-12, 18, and 19 under 35 U.S.C. § 102(b) as being anticipated by Freyn et al. be withdrawn.

### **Rejection Under 35 U.S.C. §103**

Claims 4 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Freyn et al. in view of Moder et al. (U.S. Pat. No. 6,579,554).

Claim 20 is canceled with this response rendering this rejection moot.

Claim 4 depends from claim 1. The Moder et al. reference fails to cure the deficiencies of the Freyn et al. reference with respect to claim 1. Similar to Freyn et al., the Moder et al. is directed to a freezer-to-oven dough composition (see Moder et al. at, e.g., the title). Indeed, Moder et al. was merely cited to for disclosing an encapsulated base.

In addition, there is no reason one of skill in the art would have modified either the Freyn et al. reference or the Moder et al. reference, alone or in combination, to formulate a dough composition that can proof at retarder conditions because each of the Freyn et al. and Moder et al. references teaches away from formulating a dough to proof at retarder conditions. As mentioned, the Freyn et al. and Moder et al. references describe freezer-to-oven dough compositions which are formulated to leaven at oven temperatures directly from frozen conditions. As illustrated by the Freyn et al. Examples (explained above), a freezer-to-oven dough composition is not necessarily formulated to proof at retarder conditions.

Applicants note that claim 4 is as patentable as claim 1. Claim 4 features a dough composition that includes the combination of an acidic agent having relatively high solubility at retarder conditions and an encapsulated basic agent.

There is no reason one of skill in the art would have modified the Freyn et al. reference with the Moder et al. to include an encapsulated base in a dough composition formulated to proof

at retarder conditions because one of skill in the art would not have seen a benefit in doing so. It is true, as noted in the Office Action, that an encapsulated base can help prevent reaction between the base and an acid until baking. However, the dough composition of claim 4 proofs at retarder conditions, which conditions are at a much lower temperature than baking temperatures, so the benefit of including an encapsulated base in such a composition would not have been seen by one of skill in the art.

Accordingly, it is respectfully requested that the rejection of claims 4 and 20 under 35 U.S.C. §103(a) as being unpatentable over Freyn et al. in view of Moder et al. be withdrawn.

**Conclusion**

In view of the foregoing, it is respectfully submitted that the Application is in condition for allowance, and respectfully requested that the Application be passed to issue. The Examiner is invited to telephone the Applicants' undersigned representative in the event that such communication is deemed to expedite prosecution of this application.

Respectfully Submitted,

By: 

Arlene L. Hornilla, Reg. No. 44,776  
**Customer No. 33072**  
Phone: 763-764-2265  
Facsimile: 763-764-2268

Dated: September 20, 2007